

ARTICLE APPEARED

PAGE

E 19

NEW YORK TIMES
24 February, 1985

A Court's No Forum

By William C. Westmoreland

In the aftermath of my decision to withdraw my libel suit against CBS in return for its acknowledgment that I had conducted myself faithfully and in a patriotic and loyal manner, I have received positive and negative

responses from those who supported me in my effort. Perhaps the most significant lesson I have learned is this: a court of law is not the proper place for deciding matters of historical significance or indeed judging the motives of those who played important roles in history.

However, as my case and several others have recently demonstrated, this country and its citizens, public and private alike, need some nongovernmental, nonjudicial forum where complaints against the media can be heard, judged and redressed.

This is not an indictment of our legal system. All who participated in my case, including the defendants and their counsel, conducted themselves in a proper manner. But one cannot recreate a major historical event in the courtroom.

As for the CBS Reports television program "The Uncounted Enemy: A

Vietnam Deception," I know that it was biased, misleading — far from objective. But that sometimes occurs in journalism, which properly seeks to expose misdeeds, bad judgments, acts against the public interest. And sometimes an overzealous reporter or producer gets carried away with what he or she perceives or believes to be the facts and comes up with what one would consider irresponsible reporting.

When this occurs, where can the victim go for redress?

Given the power of the media, which tend to act as their own judge and jury insofar as their own acts are concerned, there is only the court of law. However, having been through

almost two years of personal sacrifice, in time and money, and countless hours of thought, I now feel that this single resort is unsatisfactory to me as a plaintiff and, I believe, to CBS or any other part of the media. And I do not believe such confrontations serve the public interest.

What, then, is the answer to such situations, large and small?

We are all familiar with "corrections" and "letters to the editor" columns in the printed press. Television, because of the "fairness doctrine," offers an occasional rebuttal. Otherwise, there exists no forum other than courts where a complaint can be lodged and a decision reached.

Until recently, many responsible editors and reporters espoused and supported the private National News Council, a forum in which a body of peers heard a complaint and handed down a nonbinding, nonpunishing opinion. It served a public purpose, but some members of the media refused to support and cooperate with the organization because they feared it would lead to interference with First Amendment rights. So the National News Council died.

As one who believes in freedom of information — that, indeed, a free press is a bulwark of democracy — I have no wish to restrain the press's right of full and free inquiry. But if public opinion is to continue to support that right, the media must demonstrate that they are responsible. No one is perfect or infallible. Only when we admit our failures can we build strength for our successes.

Many of my friends and supporters share with me the hope that in the future producers, writers and editors will demonstrate a greater sense of responsibility in dealing with issues of historical importance.

My years at West Point and on the field of battle trained me to cope with many difficult situations. But it was not until my 70th year that I learned that dealing with history in a courtroom is far from satisfactory. I hope my effort will not be in vain — that journalists will continue doing their jobs properly, that the public will be served by free and unfettered reporting, and that those who feel they have been wronged will have a forum to hear their complaint. Then, let an informed public make the final decision. □

William C. Westmoreland retired in 1972 following four years as Army Chief of Staff.